

REMARKS

Upon entry of the instant amendment, claims 9-19 will remain pending in the application and stand ready for further action on the merits.

As seen in the instant proposed Amendment, The Applicants have effectively withdrawn the earlier filed August 13, 2003 amendments to the specification.

As also seen in the Proposed Amendment, claims 1 to 8 have been cancelled, and claim 9 (directed to a method) has been rewritten in independent form. Further, new dependent method claims 14 to 19 (corresponding to cancelled claims 3 to 8, respectively) have been added.

Objection Under 35 USC § 132

In the section entitled "specification", the Examiner states as follows:

"The amendment filed 8-13-03 is objected to under 35 U.S.C. 132 because it introduces new matter into disclosure....Applicant's changing the term 'weighted average' to 'average' is considered new matter... Applicant is required to cancel the new matter in the reply to this Office Action."

The Applicants respond as follows.

It should be noted that, simply stated, the difference between "weighted average" and ordinary "average" is only in that, in the

calculation of the former, weights are, respectively, given to the numbers to be averaged. The simplest form of a weighted average (wherein each weight is 1) is an ordinary average. Thus, there is no fundamental difference between "weighted average" and ordinary "average". Accordingly, as mentioned above, the Applicants have effectively withdrawn the earlier filed August 13, 2003 amendments to the specification.

Claim Rejections Under 35 USC § 112

Claims 1 to 13 have been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the specification was filed, had possession of the claimed invention. Specifically, the Examiner states that "Applicant's changing the term 'weighted average' to 'average' is considered new matter..."

The Applicants respond as follows.

As mentioned above, claims 1 to 8 have been cancelled, and claim 9 (directed to a method) has been rewritten in independent form. In the instantly amended claim 9, the term "weighted average" is used, as in original claim 1.

Therefore, it is believed that the rejection under 35 U.S.C. 112, first paragraph has been removed by the instant amendments to the specification and claims.

Claim Rejections 35 USC § 102/103

Claims 1-2 and 6 have been rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Hijikihigawa et al. (US 5, 140,393). Also claims 3-5 and 7-8 have been Rejected under 35 USC 103(a) over the same reference of Hijikihigawa et al.

Reconsideration and withdraw of each of the above prior art rejections is required based on the cancellation of claims 1-8 herein. Effectively, the rejections have been rendered moot.

Allowable Subject Matter

In the section entitled "Allowable subject matter", the Examiner states as follows:

"Claims 9-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form overcoming the 112 1st para. rejection and including all of the limitations of the base claim and any intervening claims."

The Applicants respond as follows.

As seen in the Proposed Amendment, the Applicants have instantly amended the claims as requested by the Examiner. It is believed that the objection to the claims has been obviated.

Further, it is submitted that the present application is now in condition for allowance.

CONCLUSION

Based upon the amendments made herein to the specification and claims, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims 9-19 are allowable at present.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Appl. No. 09/647,489

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 

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